

**COMMITTEE ON THE IMPACT OF
DOMESTIC VIOLENCE AND THE COURTS**

Minutes

September 11, 2012

Arizona State Courts Building

Conference Room 119A/B

1501 W. Washington Street, Phoenix, AZ 85007

Present: Judge Emmet J. Ronan, Chair, Judge Keith D. Barth, Sonja Burkhalter (*telephonically*), Elizabeth Ditlevson Garman (proxy for Allison Bones), Cathy Clarich, Joi Davenport, V. Michele Gamez, Esq., Judge Carey Hyatt, Judge Joseph Knoblock, Patricia Madsen, Esq., Leah Meyers, Judge Wendy Million (*telephonically*), Chief Jerald Monahan (*telephonically*), Marla Randall, Kristine Reich, Esq., Captain David Rhodes, Andrea K. Sierra, Renae Tenney, Tracy J. Wilkinson

Absent/Excused: Judge Carol Scott Berry, Pegg Derrow, Lynn Fazz, Gloria Full, Dana Martinez, Judge Cathleen B. Nichols, Det. Eugene J. Tokosh

Presenters/Guests: Sgt. Chris Boyle (Phoenix Police Department), Judge Elizabeth Finn, Patricia George (City of Phoenix), Amy Love (AOC), Sgt. Marc Rivers (Phoenix Police Department), Nathalea Silva (MAG), Amanda Stanko (MAG)

Staff: Kay Radwanski (AOC), Julie Graber (AOC)

I. REGULAR BUSINESS

A. Welcome and Opening Remarks

With a quorum present, the September 11, 2012, meeting of the Committee on the Impact of Domestic Violence and the Courts (CIDVC) was called to order at 10:10 a.m. by the Honorable Emmet J. Ronan, chair. Judge Ronan welcomed all members and guests and introduced new member, Sonja Burkhalter, executive director of the Northland Family Health Center, Flagstaff. He also informed CIDVC that new vacancies have opened following the resignations of Professor Zelda Harris and Dr. Kathy S. Deasy.

B. Approval of Minutes

The minutes of the May 8, 2012, CIDVC meeting were presented for approval.

Motion: To approve the May 8, 2012, meeting minutes as presented. **Action:** Approve, **Moved by** Cathy Clarich, **Seconded by** Judge Keith D. Barth. Motion approved unanimously. CIDVC-12-011

II. BUSINESS ITEMS/POTENTIAL ACTION ITEMS

A. City of Phoenix: New Approaches to Domestic Violence Investigations

Sgt. Marc Rivers and Sgt. Chris Boyle from the Phoenix Police Department and Patricia George, assistant prosecutor for the City of Phoenix, informed members about a new policy that was recently developed and implemented in a partnership between the Prosecutor's Office and the police department. The new policy focuses on the elements of

coercive control in the investigation of domestic violence (DV) crimes. It is intended to help detectives direct precious resources to the victims who need them and to hold offenders accountable for their actions.

Sgt. Boyle provided some history about prior DV case procedures. Instead of triaging DV cases based on the type of suspect, cases were lumped together based on the amount and severity of injuries. He pointed out that historically, regardless of the total number of homicides in a year, 10 percent typically are DV-related cases, which are normally composed of “patterned” and “unpatterned” DV. Patterned DV is the most dangerous type for victims and officers, and it involves coercive control (e.g., the partner intimidates and isolates the person or demands things to be done and verifies that they were done) while unpatterned DV does not. A situation where brothers assault one another is an example of unpatterned DV, which is often based on situational conflicts.

Sgt. Boyle described the new offender-based approach used by officers and detectives to investigate and recognize coercive control, which is based on four course-of-conduct patterns (i.e., presumptive acts, frames of action, escalation, and coercion process). A card is provided to officers, who receive the necessary training to take notes about DV cases, and it also contains specific questions to profile the lethality of situations. Sgt. Boyle reviewed three types of DV situations that officers and detectives encounter. Situational conflicts that do not manifest coercive control are known as Group 3 situations and account for two-thirds of DV cases, which are handled as normal assault cases. Groups 1 and 2 situations are similar in that they both involve coercive control; however, Group 1 already displays violence whereas in Group 2, the partner is usually working toward violence (e.g., the partner might break and enter into the victim’s home after the couple splits up). According to extensive research, 99.9 percent of coercive control victims are women, unless victims are in a homosexual relationship. Sgt. Boyle explained that the new approach focuses on Groups 1 and 2 and allows detectives to conduct quality investigations by spending two-thirds of their time on one-third of cases. He also noted that when officers and detectives dedicate their time to these victims and get them in touch with the necessary resources, victims have been more likely to stay with the prosecution.

Ms. George relayed a prosecutor’s perspective on the new procedures, which she applauded based on the results obtained. She pointed to the constant contact she has with detectives and to the immediate information she receives. Ms. George commended the Phoenix Police Department for the quality work and dedication shown.

B. MAG Victim Advocates Project

Renae Tenney, MAG Human Services Planner, Nathalea Silva, MAG Human Services Intern, and Amanda Stanko, MAG Information Services Intern, presented the MAG Victim Services Provider Inventory and Interactive Web Map. The inventory and map were developed following MAG focus group discussions where victims related a lack of knowledge about the court process and about where to go to get help, and stressed the importance and benefits of having someone such as a victim advocate guide them. Because many agencies provide a variety of victim services, a need was identified for a

centralized inventory of victim service providers as well as a map of their locations to help connect victim advocates and to provide the services and guidance victims need. A survey was conducted seeking feedback from victim advocates regarding training, and respondents' information was compiled into an easy-to-use toolkit for users, which was featured and demonstrated for CIDVC members. The toolkit will be available online to the public at the beginning of June. Survey results identified training inconsistencies among agencies (law enforcement advocates had the most training while court advocates had the least) as well as the main barriers to training (costs and time). Additionally, advocates sought more frequent training requirements (quarterly rather than annually) with more advanced and specialized options.

A question was raised about how the tool would be updated. Information updates would be done on a quarterly basis and would be agency-based rather than advocates-based.

C. 2012 Forms Review

The Forms and Processes Workgroup presented for CIDVC's approval their proposed recommendations to the protective order forms based on comments received from CIDVC members. Highlights of the discussion included the following:

Plaintiff's Guide Sheet for Protective Orders

- There was new discussion about whether the Guide Sheet needs the "ORI" (originating agency identifier) or "DPS" identifiers. AOC staff who perform court operational reviews have noted that ARPOP Rule 10 requires the ORI and DPS numbers to appear on all approved protective order forms.
- Judge Finn indicated that the original intent was for the identifiers to go on the forms that are served, not an informational form like this, which is intended for the plaintiff to keep.
- In order to be consistent and avoid compliance issues, the committee agreed that a rule change petition should be drafted indicating that it is not necessary to have such identifiers on the form because the information would be on the petition and order. This would be a task for the ARPOP Workgroup.
- Email address line was added in anticipation of the State Bar Association's rule change petition to add the email information.
- After discussion, members agreed that the question calling for distinctive features and aliases will not be displayed on this form or on the Order of Protection, Injunction Against Harassment, Injunction Against Workplace Harassment, or Emergency Order of Protection.

Petition for OP/IAH/IAWH

- After some discussion, the committee agreed not to include language advising the plaintiff that he or she can reference police reports in the description of what happened.

Emergency Order of Protection

- There was discussion and agreement that space should be created for law enforcement to handwrite "ORI" and "DPS" identifiers on the form when needed.

Hearing Request

- There was a suggestion to add space on the form to insert the name of the language needed when interpreter services are requested.

Hearing Order

- There was a recommendation to document the reason why an ex-parte protective order is denied and thereby provide additional clarification in accordance with ARPOP rules. Members agreed to insert a line called “Reason: _____” after “[] A protective order is [] granted [] denied [] withdrawn.”
- There was discussion about whether to keep the “Continuance date is _/_/_” and members agreed to remove it and replace it with “See Notice of Hearing.”

Motion: To recommend to David Byers that the forms be approved, as modified. **Moved by** Judge Carey Hyatt, **Seconded by** Tracy J. Wilkinson. Michele Gamez asked if the forms’ footers would be changed. The footers will be modified to refer to the Administrative Directive. Motion passed unanimously.

D. Update: Petitions to Amend ARPOP Rules

Kay Radwanski, AOC committee staff, updated CIDVC on the outcome of the rule petitions affecting the Arizona Rules of Protective Order Procedure filed in the most recent rules cycle. The Supreme Court conducted its Rules Agenda meeting in August.

Petition R-11-0043 – ARPOP Rule 1(M)

This petition, filed by the State Bar of Arizona (SBA), concerned the notice of service to plaintiff. The Supreme Court referred this petition directly to CIDVC for further review. The ARPOP Workgroup might consider taking up this matter and find a possible compromise. Judge Finn cautioned about possibly duplicating efforts because of ongoing pilot projects where law enforcement provides notice directly to the plaintiff.

Petition R-12-0007 – ARPOP Rule 6(E)(4)(e)(2)

The petition filed by Michael Roth regarding Injunctions Against Harassment (IAH) and weapons was continued with another version under consideration. The Court substituted language from the SBA requiring a judge to make a finding that defendant is a credible threat to plaintiff before prohibiting weapons on IAH. The petition will remain open for comments on the Arizona Court Rules Forum until May 20, 2013.

Petition R-12-0013 – ARPOP Rule 1(C), ARFLP Rule 13(D), and Rule 123, Rules of the Supreme Court

This petition filed by CIDVC regarding unserved orders was adopted with a modification, making changes to ARPOP, the Arizona Rules of Family Law Procedure, and the Rules of the Supreme Court. Effective January 1, 2013, courts cannot make information publicly available regarding the filing of or contents of a petition for or issuance of a protective order until proof of service has been filed with the court.

Petition R-12-0023 – ARPOP Rule 1(D)(4)

The petition filed by Michael Palmer regarding courtroom control was rejected.

E. Advisory Committee on Supreme Court Rules 123 and 125

Ms. Radwanski introduced the new Advisory Committee on Supreme Court Rules 123 and 125, which was established by Administrative Order 2012-41, and tasked with recommending policy regarding Internet publication of minute entries in family law cases and case records in probate cases. She described the committee's membership and provided background into its formation and the reasons for which it was created. The committee intends to submit a rule petition to AJC for discussion at its December meeting. The intent is to file it in January 2013. Ms. Radwanski raised some of the issues discussed in the committee regarding the publication of family law minute entries on the Internet as well as the effect that posting certain information about protective order parties would have on family law cases. She highlighted some of the concerns with regard to family law minute entries:

- Family law minute entries vary among counties. Some minute entries are very short and non-descriptive while others are very extensive and contain an analysis of all the child custody factors, including mental and physical health information. The availability of this detailed information on the Internet was a matter of concern, prompting two legislators to introduce a bill in the last session. The legislators agreed to withdraw the bill to allow the Court time to try to resolve the issue through a rule change.
- In some courts, if during a pending divorce case a protective order is filed, the same case number is used for both cases. The information from both cases is then pulled together and minute entries can reflect information about the protective order, which is problematic because federal law prohibits the Internet publication of any protective order information that would identify and locate the plaintiff even if defendant has been served.

After consideration, the committee's consensus was that minute entries in probate cases and mental health cases should be limited to the four data elements (i.e., names of parties, names of attorneys, case number, and case type). Ms. Radwanski noted that language is currently being drafted for the committee's approval that would deal with family law minute entries versus matters taken under advisement. Courts would also need some education about what and what not to post. Ms. Radwanski will provide an update on the committee's work at the next CIDVC meeting.

F. Workgroup Reports

The following reports were presented:

A.R.S. §13-3601 Review Workgroup – Judge Wendy Million reported having law students researching domestic violence laws in other states.

Forms and Processes Workgroup – No update provided.

ARPOP Workgroup – No update provided.

Best Practices Workgroup/Education Workgroup – Judge Million reported on the domestic violence session given at the Judicial Conference in June. She noted that the

information was good but more education is needed for judges regarding coercive control and lethality factors.

Batterer Treatment Programs Workgroup – No update provided.

III. OTHER BUSINESS

A. Call to the Public

No persons from the general public were present.

A workshop entitled “Building Connections to Justice Training Event” from the MAG Protocol Evaluation Project is scheduled for October 24, 2012, at the University of Arizona College of Medicine-Phoenix (Virginia G. Piper Auditorium, Building 2, 600 East Van Buren Street, Phoenix, AZ).

B. Next Meeting

November 13, 2012
Conference Room 119 A/B
Arizona State Courts Building
1501 W. Washington St.
Phoenix, AZ 85007

The meeting adjourned at 1:39 p.m.